

**TRAFFIC VIOLATION AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jordan D. Teuscher**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE****General Description:**

This bill creates a deferred prosecution program for a person charged with a traffic infraction.

**Highlighted Provisions:**

This bill:

- defines terms;
- creates a deferred prosecution program to allow a person to apply for deferred prosecution of a traffic infraction;
- describes the application requirements for deferred prosecution;
- allows a person who applies for deferred prosecution to not have judgment of conviction entered against the person if the person does not receive a citation for another traffic violation in the 12 months following the application for deferred prosecution; and
- requires the court to enter a judgment of conviction if the person fails to comply with the terms of the deferred prosecution.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**77-2-4.2**, as last amended by Laws of Utah 2008, Chapters 3, 339, and 382

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **77-2-4.2** is amended to read:

**77-2-4.2. Compromise of traffic charges -- Deferred prosecution of traffic infractions -- Limitations.**

(1) As used in this section:

(a) "Compromise" means referral of a person charged with a traffic violation to traffic school or other school, class, or remedial or rehabilitative program.

(b) "Deferral period" means the 12-month period following the date on which a person submits an application for deferred prosecution.

(c) "Deferred prosecution" means the deferral of prosecution of a person charged with a traffic infraction if the person complies with the requirements described in Subsection (5).

(d) (i) "Traffic infraction" means a violation of Title 41, Chapter 6a, Traffic Code, or a local traffic ordinance that is an infraction.

(ii) "Traffic infraction" does not include an offense that is a misdemeanor or a felony.

~~(b)~~ (e) "Traffic violation" means any charge for which bail may be forfeited in lieu of appearance, by citation or information, of a violation of:

(i) Title 41, Chapter 6a, Traffic Code, amounting to:

(A) a class B misdemeanor;

(B) a class C misdemeanor; or

(C) an infraction; or

(ii) any local traffic ordinance.

(2) Any compromise of a traffic violation shall be done pursuant to a plea in abeyance agreement as provided in Title 77, Chapter 2a, Pleas in Abeyance, except:

(a) when the criminal prosecution is dismissed pursuant to Section **77-2-4**; or

(b) when there is a plea by the defendant to and entry of a judgment by a court for the offense originally charged or for an amended charge.

(3) In all cases which are compromised pursuant to the provisions of Subsection (2):

(a) the court, taking into consideration the offense charged, shall collect a plea in

abeyance fee which shall:

(i) be subject to the same surcharge as if imposed on a criminal fine;

(ii) be allocated subject to the surcharge as if paid as a criminal fine under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation; and

(iii) be not more than \$25 greater than the bail designated in the Uniform Bail Schedule; or

(b) if no plea in abeyance fee is collected, a surcharge on the fee charged for the traffic school or other school, class, or rehabilitative program shall be collected, which surcharge shall:

(i) be computed, assessed, collected, and remitted in the same manner as if the traffic school fee and surcharge had been imposed as a criminal fine and surcharge; and

(ii) be subject to the financial requirements contained in Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation.

(4) If a written plea in abeyance agreement is provided, or the defendant requests a written accounting, an itemized statement of all amounts assessed by the court shall be provided, including:

(a) the Uniform Bail Schedule amount;

(b) the amount of any surcharges being assessed; and

(c) the amount of the plea in abeyance fee.

(5) (a) Except as provided in Subsection (5)(b), a person charged with a traffic infraction may apply for deferred prosecution.

(b) The following may not apply for deferred prosecution as described in this section:

(i) a person under 18 years old;

(ii) a person with a commercial driver license;

(iii) a person who has committed a traffic violation within the 24 months immediately preceding the date of the application for deferred prosecution; or

(iv) a person charged with multiple offenses related to the same episode or occurrence.

(c) A person who applies for deferred prosecution shall:

(i) (A) apply with the relevant court clerk on a form provided by the court; or

(B) apply through an online application process provided by the court;

90 (ii) pay the relevant fine associated with the traffic infraction for which the person was  
91 charged;

92 (iii) pay an administrative fee to the court; and

93 (iv) enter a deferred plea of guilty as described in Subsection (5)(d).

94 (d) If a person applies for deferred prosecution, the court shall:

95 (i) record the deferred plea of guilty;

96 (ii) not enter the deferred plea of guilty unless the person fails to comply with the terms  
97 of the deferred prosecution; and

98 (iii) if the person fails to comply with the terms of the deferred prosecution, enter a  
99 judgment of conviction as described in Subsection (5)(e)(ii).

100 (e) (i) Except as provided in Subsection (5)(e)(ii), if a person applies for deferred  
101 prosecution and the person is not convicted of another traffic citation during the deferral  
102 period:

103 (A) the prosecutor may not prosecute the person;

104 (B) the court may not enter judgment of conviction against the person or impose a  
105 sentence for the traffic infraction; and

106 (C) the court shall dismiss the charge for the traffic infraction.

107 (ii) If a person that has applied for deferred prosecution is convicted of another a traffic  
108 violation within the deferral period, the court shall enter judgment of conviction against the  
109 person for:

110 (A) the traffic infraction for which the deferred prosecution was applied; and

111 (B) the traffic violation that occurred during the deferral period.

112 (f) Each court shall provide an application process, including an online application  
113 process, for a person to apply for deferred prosecution.

114 (g) (i) A prosecutor may not amend a charge from an infraction to a misdemeanor:

115 (A) if the infraction offense has the same elements as the misdemeanor offense; or

116 (B) for the sole purpose of prohibiting a person from applying for deferred prosecution.

117 (ii) A deferred prosecution is not a prosecution for purposes of Section [76-1-403](#).

118 (h) An individual applying for deferred prosecution in accordance with this section  
119 may not be required to appear in-person in order to apply for deferred prosecution.